

COMSCINST 4295.2A	COG CODE N2	DATE 3 MAY 1977
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DEPARTMENT OF THE NAVY
 COMMANDER MILITARY SEALIFT COMMAND
 WASHINGTON NAVY YARD BLDG 210
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 WASHINGTON DC 20398-5540

COMSCINST 4295.2A
 M-7
 3 May 1977

COMSC INSTRUCTION 4295.2A

Subj: DISCLOSURE OF PROCUREMENT INFORMATION

Ref: (a) 18 USC 1905
 (b) ASPR 1-329.3(c)(4)
 (c) ASPR 1-329.3(c)(5)
 (d) ASPR 3-507
 (e) COMSCINST 5720.8 (Availability to the Public of MSC Records)

1. Purpose. To warn MSC personnel against disclosing information relating to procurement actions and to notify that unauthorized disclosure may subject offending personnel to disciplinary action.

2. Cancellation. COMSCINST 4295.2.

3. Background. Unauthorized disclosure of procurement information discredits the integrity of the MSC procurement process. As such, it may invalidate the procurement and be a source of embarrassment to MSC. Employees making such disclosure are subject to disciplinary action and may be subject to criminal prosecution for violation of any one of a number of statutes of which reference (a) is one.

4. Discussion. The Armed Services Procurement Regulation sets forth the types of procurement information which may or may not be divulged. It does not, and of course, cannot provide guidance for all situations. Some of the prohibitions, however, are set forth for ready reference:

a. Under reference (b) "trade secrets and commercial or financial information obtained from a person and privileged or confidential" are normally not to be disclosed. This exception includes business statistics, inventory and customer lists, and scientific and manufacturing processes.

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b. Reference (c) exempts from disclosure "inter-agency of intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency." This exception covers a wide range of Government prepared documents including cost and price analyses, contractor experience lists, negotiation memoranda, pre-award surveys, quality assurance and inspection reports, and so forth. In addition, advance information on proposed plans to procure and lease (charter) should not be released, particularly when such information would give unfair competitive advantage to private personal interests.

c. Reference (d) provides that during the pre-award period after receipt of proposals "no information contained in any proposal or quotation or information regarding the number or identity of the offerors shall be made available to the public."

5. Action. MSC employees shall not divulge to the public or to anyone within the Government not having a legitimate interest therein procurement information which is not authorized by the Armed Services Procurement Regulation. If there is any doubt concerning the propriety of release or conflict with the Freedom of Information Act or reference (e), clearance must be obtained from Counsel before release can be effected.

/s/

S. H. MOORE

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